IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.9582 of 2004

Between:

Gunnam Pattabhiramaiah S/o Krishna Murthy, Resident of Domada,

Pedapudi Mandalam, East Godavari District.

..... PETITIONER

AND

1 The Government of AP. Rep by its Secreatry, Revenue Department, Secretariat, Hyderabad.
2 The District Collector, East Godavari District, Kakinada.
3 The Land Acquisition Officer, Revenue Divisional Officer, Kakinada, East Godavari District.
4 The Assistant Commissioner, Endowments Department, Near City Hospital, Danavaya Peta, Rajahmundry, East Godavari District.
5 Person in Management (Executive Officer) Sri Venugopala Swamy Temple, Domada, Pedapudi Mandalam, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue the writ order or direction more particularly in a nature of writ of Mandamus declaring the impugned action of the respondents in issuing impugned notification under Section 6 of the land Acquisition Act, vide proceedings No. G2/260 dt.28/02/2004, published on 28/05/2004 for acquiring the land to an extent of merely Ac.2.81 cents in Survey No.161 situated at Domada Village Pedapudi Mandalam, EG District as highly legal arbitrary and contrary to the circulars, directions issued by the Government from time to time and also contrary to the provisions land Acquisition and endowments act and consequently set aside the same.

Counsel for the Petitioner: MRS.D.GEETHA

Counsel for the Respondent Nos.1 to 4: GP FOR ENDOWMENTS

Counsel for the Respondent No.5: Smt.N.INDRANI

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9582 of 2004

ORDER:

Sri Venugopala Swamy Temple, Domada Village, Pedapudi Mandal, East Godavari District owns an extent of Acs.2.81 of wetland in Survey No.161 of Domada village. The second respondent initiated land acquisition proceedings under Land Acquisition Act, 1894 (the Act). The declaration under Section 6 of the Act was issued on 28.2.2004 proposing to acquire the said land. Assailing which the present writ petition is filed.

It is the case of the petitioner that he is the tenant of the land and being a small farmer, he is entitled for the benefit under Section 82 of A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 (Endowments Act). It is contended that if the land is acquired by the second respondent, it would cause hardship to the petitioner.

If the petitioner seeks the benefits under Section 82 of the Endowments Act, it is open to him to approach the jurisdictional authority, the Assistant Commissioner, under Rule 3 of A.P. Charitable and Hindu Religious Institutions & Endowments Lease of Land Rules, 2002. Unless and until the petitioner gets a declaration that he is a small farmer under Section 82 of the Endowments, he cannot have any preemption rights. Further, even assuming that he is entitled to purchase the land from the fourth respondent Temple, the power of eminent domain of State cannot be denied. It is always open to the State to acquire the land whether it is a free hold or leasehold. The petitioner, who claims to be lessee of Temple land, can always appear before the Land Acquisition Officer and claim compensation if he is so entitled to under law. In this writ petition, Land Acquisition Proceedings cannot be invalidated, as no ground much less valid ground is raised in the writ petition.

The writ petition is devoid of merits and is, accordingly, dismissed.

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(**V.V.S.RAO,J**)

July 22, 2005.

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To

1 The Secretary, Government of A.P., Revenue Department, Secretariat, Hyderabad.
2 The District Collector, East Godavari District, Kakinada.
3 The Land Acquisition Officer, Revenue Divisional Officer, Kakinada, East Godavari District.
4 The Assistant Commissioner, Endowments Department,

Near City Hospital, Danavaya Peta, Rajahmundry ,

East Godavari District.
5 Person in Management (Executive Officer) Sri Venugopala Swamy Temple, Domada, Pedapudi Mandalam, East Godavari District.

6 Two CCs to the Government Pleader for Endowments, High Court Buildings, Hyderabad. (OUT)

7 Two C.D. Copies.